

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

DIANA S. WILKINS,

Plaintiff,

v.

**Civil Action No. 2:09 CV 111
(Maxwell)**

**MICHAEL J. ASTRUE,
COMMISSIONER OF
SOCIAL SECURITY,**

Defendant.

ORDER

The above-styled social security appeal was instituted on September 11, 2009, with the filing of a Complaint by Plaintiff Diana S. Wilkins. This case was referred to Magistrate Judge James E. Seibert in accordance with Rule 83.12 of the Local Rules of General Practice and Procedure.

On May 18, 2010, Magistrate Judge Seibert entered a Report and Recommendation (Doc. 20) wherein he recommended that the plaintiff's Motion for Summary Judgment be denied and that the defendant's Motion for Summary Judgment be granted. Specifically, Magistrate Judge Seibert found that the Administrative Law Judge did not err by failing to give controlling weight to the plaintiff's treating physicians and that said Administrative Law Judge properly assessed the plaintiff's credibility.

In said Report and Recommendation, the parties were directed, in accordance with 28 U.S.C. § 636(b)(1) and Rule 6(e) of the Federal Rules of Civil Procedure, to file any written objections thereto with the Clerk of Court within fourteen (14) days after being served with a copy of said Report and Recommendation. Magistrate Judge Seibert's Report and Recommendation expressly provided that a failure to timely file objections would result in waiver of the right to appeal from a judgment of this Court based thereon.

The docket in the above-styled civil action reflects that no objections to Magistrate Judge Seibert's May 18, 2010, Report and Recommendation have been filed.

Upon consideration of said Report and Recommendation, and having received no written objections thereto¹, the Court accepts and approves the Report and Recommendation. Therefore, it is

ORDERED that Magistrate Judge Seibert's Report and Recommendation (Doc. 20) be, and is hereby, **ACCEPTED** and that this civil action be disposed of in accordance with the recommendation of the Magistrate Judge. Accordingly,

1. The plaintiff's Motion for Summary Judgment (Doc. 14) is **DENIED**; and
2. The defendant's Motion for Summary Judgment (Doc. 18) is **GRANTED**; and
3. The decision of the Administrative Law Judge is **AFFIRMED**; and

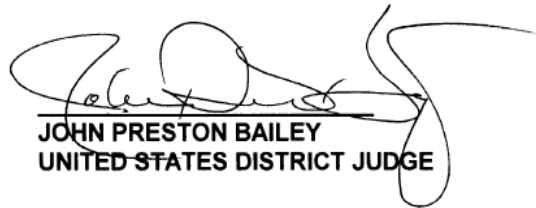
¹The failure of the parties to object to the Report and Recommendation not only waives their appellate rights in this matter, but also relieves the Court of any obligation to conduct a *de novo* review of the issues presented. See **Wells v. Shriners Hospital**, 109 F.3d 198, 199-200 (4th Cir. 1997); **Thomas v. Arn**, 474 U.S. 140, 148-153 (1985).

4. The above-styled civil action is **DISMISSED** and **RETIRED** from the docket of this Court.

Pursuant to Rule 58 of the Federal Rules of Civil Procedure, the Clerk of Court is directed to enter a separate Judgment Order affirming the decision of the defendant.

The Clerk of Court is directed to transmit copies of this Order and the Judgment Order to counsel of record.

DATED: July 30, 2010.



JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE